

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

SARINA ERVIN,	)	
	)	
Petitioner,	)	Case Number: 21-cv-6064
v.	)	Removed from the Circuit Court
RAYMOND ERVIN,	)	of Lake County, Illinois,
	)	Case No. 2004 D 1943
Respondent,	)	
	)	
GWENDOLYN BARLOW,	)	The Hon. Gary Feinerman, Judge
	)	Presiding.
Third-Party Respondent.	)	

**PETITIONER'S MEMORANDUM IN SUPPORT OF HER  
REQUEST FOR COSTS AND FEES**

Petitioner Sarina Ervin (“Sarina” or “Petitioner”), by and through her undersigned attorneys and pursuant to 28 U.S.C. § 1447(c) and this Court’s December 16, 2021 Order [15], respectfully moves this Court for an order requiring Respondents Raymond Ervin (“Raymond”) and Gwendolyn Barlow (“Barlow”) to pay Sarina’s just costs and actual expenses, including attorneys’ fees, incurred as a result of their improper removal of this action. In support of her request, Sarina respectfully states as follows:

1. Respondents removed this matter from state court on November 15, 2021. [1].
2. The next day, Sarina filed her Motion for Remand. [6]
3. On December 16, 2021, this Court entered an order granting Sarina’s Motion, remanding this matter to state court, and granting Petitioner’s request for fees and costs pursuant to 28 U.S.C. §1447(c), requiring her to file a

memorandum, with evidentiary support, setting forth the fees and costs she incurred in seeking remand. [15]

4. Respondents then moved to reconsider that decision. [16].

5. The undersigned counsel began preparing a response to the same; however this Court denied their request before said response could be filed. [17]

6. As set forth on the attached affidavit of Sarina's counsel, Matthew Elster, as well as Beermann LLP's billing statements appended thereto, Sarina incurred \$13,015 in attorneys' fees and \$98.17 in costs successfully remanding this matter to state court.<sup>1</sup>

7. Finally, given Respondents' proclivity for filing frivolous removals followed by frivolous appeals, for disregarding court orders, and for Raymond's *continued* failure to comply with Judge Alonso's fee order in his prior case, this Court should strongly consider the imposition of additional sanctions, including robust filing restrictions, on both Respondents, lest this Court find itself being asked, for the fourth time, to sit as a court of review of state court decisions with which Respondents are unsatisfied. It is clear that fee awards are not a sufficient deterrent here, as Respondents have demonstrated a palpable unwillingness to comply with the same. This Court should not continue to entertain—and Sarina should not be forced to continue to pay to defend herself against—Respondents' deplorable attempts to shirk Raymond's obligations to his and Sarina's children.

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<sup>1</sup> This Court retains jurisdiction to enter a fee award, even though this case has been remanded to state court. *PNC Bank, N.A. v. Spencer*, 763 F.3d 650, 654 (7th Cir. 2014) ("even after remanding a case to state court, a district court retains jurisdiction to decide collateral matters like fee awards").

WHEREFORE, Petitioner, Sarina Ervin, respectfully requests that this Court enter a judgment jointly and severally against the Respondent, Raymond Ervin, and Third-Party Respondent, Gwendolyn Barlow, and in favor of the Petitioner, Sarina Ervin, in the amount of **\$13,113.17**, representing the reasonable costs and expenses, including attorneys' fees, she incurred as a result of their improper removal to this Court.

**BEERMANN LLP**

Attorneys for Petitioner

By: /s/ Matthew D. Elster  
One of Her Attorneys

Matthew D. Elster  
**BEERMANN LLP**  
161 North Clark Street #3000  
Chicago, IL 60601  
312.621.9700  
[mdelster@beermannlaw.com](mailto:mdelster@beermannlaw.com)

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v. ) Removed from the Circuit Court  
RAYMOND ERVIN, ) of Lake County, Illinois,  
Respondent. ) Case No. 2004 D 1943  
(GWENDOLYN BARLOW, ) The Hon. Gary Feinerman, Judge  
Third-Party Respondent.) ) Presiding.

**AFFIDAVIT REGARDING PETITIONER'S FEES AND COSTS**

MATTHEW D. ELSTER, being of legal age and operating under no disability, being duly sworn and under penalty of perjury, states under oath as follows:

1. I make this Affidavit upon personal facts and knowledge of mine.
2. I am an attorney licensed to practice law in the State of Illinois on a continuous basis since 2010 and before this Court since 2012. I have been employed by Beermann LLP as an attorney since 2012. Beermann LLP is currently representing Sarina Ervin in the above referenced matter. My hourly rate in this matter is \$425 per hour.
3. I have been the attorney primarily responsible for Sarina's representation in this matter.
4. In addition to reviewing Respondents' voluminous pleadings (an 11 page Notice of Removal and a 15 page response to my Motion for Remand) and exhibits (65 exhibits to their Notice of Removal and 23 more to their Response to Sarina's Motion to Remand), I conducted substantial legal research on the myriad issues raised by Respondents and conferred with my partner, Jonathan D. Steele, the attorney primarily responsible for Sarina's representation in the state court matter, for necessary information regarding the status of the state court proceedings and Respondents' prior conduct therein.
5. I also conferred with Enrico J. Mirabelli, the senior partner on this file, on matters of strategy and preparation for oral argument.

6. Mr. Steele is an attorney licensed to practice law in the State of Illinois on a continuous basis since 2012. He was admitted to the general bar of this Court on December 13, 2021. He has been employed by Beermann LLP as an attorney since 2012. His current hourly rate in this matter is \$400 per hour.
7. Mr. Mirabelli is an attorney licensed to practice law in the State of Illinois on a continuous basis since 1981 and a member of this Court's trial bar. His current hourly rate in this matter is \$600 per hour.
8. These rates represent the customary charges for representation in such actions and are fair and reasonable in light of the above attorneys' expertise and standards established by custom and usage in the community of family law practitioners in the greater Chicagoland area.
9. Appended hereto are true accurate copies of the monthly billing statements sent to Sarina by Beermann LLP for the months of November and December 2021.
10. The unredacted entries reflect the time spent, the service performed, and the fees incurred by Beermann LLP attorneys in connection with Respondents' removal of this matter to federal court and Sarina's successful efforts to have it remanded.
11. I have redacted billing entries unrelated to this matter.
12. These monthly billing statements are created from contemporaneously made time entries in our ProLaw system, and are made and kept in the regular course of Beermann's business activity business.
13. As set forth on that spreadsheet, Sarina's attorneys spent a total of **36.25** hours in connection with Respondents' improper removal of this action, and incurred **\$13,015** in attorneys' fees and **\$98.17** in costs in connection with the same.

*/s/ Matthew D. Elster*

Matthew D. Elster

Matthew D. Elster

**BEERMANN LLP**

Attorneys for Petitioner

161 North Clark Street, Suite 3000, Chicago, IL 60601

Tel: (312) 621-9700

[mdelster@beermannlaw.com](mailto:mdelster@beermannlaw.com)



161 NORTH CLARK STREET • SUITE 3000 • CHICAGO, ILLINOIS 60601  
TELEPHONE (312) 621-9700 • FAX (312) 621-0909 • WWW.BEERMANNLAW.COM  
TIN 36-2386551

December 1, 2021  
Ref. No. 446950  
JDS

Sarina Ervin

[REDACTED]  
[REDACTED]  
@ [REDACTED]

Family Law Matter in RE:  
Ervin marriage  
File No. 1411-001

### Previous Balance Brought Forward

Professional Services Rendered			Hours	Amount
11/01/21				
11/05/21				
11/09/21				
11/10/21				
11/10/21				
11/12/21				
11/15/21	MDE	Review notice of removal filed by Ervin/Barlow, conference with JDS, begin research and drafting motion for remand.	2.70	1,147.50
11/16/21	MDE	Further drafting of motion for remand and memorandum of law in support of same; gather exhibits, prepare motion, memo, and appearance for e-filing; e-file and serve.	2.20	935.00
11/16/21	JDS	Receipt review and transmittal of notice of removal. Emails with MDE re same. Phone conferences with MDE and EJM re same. Review and revise motion to remand. Receipt review and transmittal of minute order.	3.50	1,400.00
11/17/21	MDE	Strategy conference with EJM and JDS regarding strategy for remand and federal proceedings.	0.50	212.50
11/17/21	EJM	Review Motion to remand and conf with MDE and JDS re: sanctions against Gwen and Raymond in both state and federal court and filing of fee petition .	0.50	300.00
11/17/21				
11/18/21				
11/18/21				
11/22/21	JDS	Receipt review and transmittal of motion for extension of time to file response. Conference with MDE re same. Review of response.	1.00	400.00
11/23/21	JDS	Receipt review and transmittal of order extending response time. Email exchange with client re same and re procedure for hearing. Conference with MDE and EJM re hearing and necessity for reply.	1.00	400.00
11/24/21	JDS	Research re federal jurisdiction and bar on filings for Barlow filing. Review of cases cited by opposing parties in their notice of removal.	3.00	1,200.00



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11/25/21 [REDACTED]

11/26/21 [REDACTED]

11/29/21	MDE	Review response to motion for remand; discuss same with JDS.	0.70	297.50
11/30/21	MDE	Research and draft reply to response to motion for remand.	0.90	382.50
11/30/21	JDS	Review of opposing parties response to motion to remand and review of cases cited therein. Conferences with EJM and MDE re same.	2.50	1,000.00

Total Services: [REDACTED]

**Expenses**

Amount

[REDACTED]	[REDACTED]
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**Invoice Summary**

Previous Balance Brought Forward:

Total New Charges:

Subtotal:

Payments/Adjustments:

**Total Balance Due:**

**18.5 hours - \$7,675.00**

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Current

Over 30

Over 60

Over 90



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TIN 36-2386551

January 1, 2022  
Ref. No. 448447  
JDS

Sarina Ervin  
[REDACTED]

Family Law Matter in RE:  
Ervin marriage  
File No. 1411-001

**Previous Balance Brought Forward** [REDACTED]

Professional Services Rendered			Hours	Amount
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12/01/21	JDS	Review and revise reply to motion to remand.	1.50	600.00
12/01/21	MDE	Further research and drafting of reply to response to motion for remand (Younger, Juidice, etc.).	3.30	1,402.50
12/02/21	JDS	Conference with EJM re reply to remand and hearing re same.	0.50	200.00
12/02/21	MDE	Final edits to reply to response to motion for remand; prepare and file same.	1.50	637.50
12/06/21	JDS	Review and revise MDE argument outline. Conferences with MDE regarding same. Conference with EJM regarding hearing and attendance at hearing.	1.50	600.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12/06/21	MDE	Prepare for and attend court appearance on our motion to remand.	1.50	637.50
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12/13/21	JDS	Conferences with EJM and ME re fed. Ct. Ruling and procedure.	0.50	200.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12/16/21	MDE	Begin drafting memo in support of fees.	1.00	425.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12/16/21	MDE	Review remand decision; conference with JDS regarding same.	0.30	127.50
12/17/21	MDE	Research and begin drafting response to Respondents' Motion to	1.20	510.00



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Reconsider Remand (research into fed ct jurx to entertain reconsideration of remand order under 1447d).

A 10x10 grid of black bars representing data points. The bars are arranged in a pattern where most are long and thin, while a few are significantly shorter, indicating sparse data.

### Total Services:

<b>Expenses</b>		<b>Amount</b>
12/07/21	Paid to THOMSON REUTERS - WEST.	98.17
	Total Expenses:	\$98.17

## **Invoice Summary**

**12.8 hours - \$5,438.17**

### **Previous Balance Brought Forward:**

### Total New Charges:

**Subtotal:**

### **Payments/Adjustments:**

**Total Balance Due:**

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Current

Over 30

Over 60

Over 90



**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of January, 2022, a copy of the foregoing ***Memorandum in Support of Motion For Costs and Fees*** was filed via the court's CM/ECF system, which will send electronic notice to all counsel of record who have appeared in this case.

/s/ Matthew D. Elster